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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/572,762

03/21/2006

Peter Asplund

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03/04/2009

IP GROUP OF DLA PIPER US LLP

ONE LIBERTY PLACE

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PHILADELPHIA, PA 19103

EXAMINER

CHAUDHRY, SAEED T

ART UNIT

PAPER NUMBER

1792

MAIL DATE

DELIVERY MODE

03/04/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/572,762

**Applicant(s)**

ASPLUND ET AL.

**Examiner**

Saeed T. Chaudhry

**Art Unit**

1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 8-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 15-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

Applicant's preliminary amendments and remarks filed March 21, 2006 have been acknowledged by the examiner and entered. Claims 1-20 are pending in this application for consideration.

**Election/Restriction**

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- I. Claims 1-7 and 15-20, drawn to an apparatus having nozzle body.
- II. Claims 8-14, drawn to a method for washing a turbine unit.

The inventions listed as Groups I, claims 1-7 and 15-20 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The apparatus as claimed can be used to practice another and materially different process such as coating or painting a surface.

During a telephone conversation with Mr. Richard L. Cruz on February 27, 2009 a provisional election was made without traverse to prosecute the invention of Group II, claims 1-7 and 15-20. Affirmation of this election must be made by applicant in responding to this Office action. Claims 8-14 are withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### **Priority**

Receipt is acknowledged of papers submitted under 35 U.S.C. § 119, which papers have been placed of record in the file.

### **Claim Rejections - 35 USC § 112**

**Claims 1-7 and 15-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claims 1 and 15 recite a limitation 0-80°. It is not clear that if the angle is 0° degrees then how the junction point is in the range of 5 to 30 cm.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made

The factual inquiries set forth in *Graham v. John Deere Co.*, 148 USPQ 459, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

**Claims 1-7 and 15-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kukesh et al.**

Kukesh et al (5,178,326) disclose a nozzle having intake and outlet end with a center axis; a number of orifice openings; wherein the orifices directed toward the center of the axis at a junction point at a distance of 3/8" to 1/2" and an angle 25° to 35° toward the center axis and fluid (see Figs. 11A, 11B, 12 and col. 20, line 48 to col. 22, line 68). The reference fails to disclose a specific distance of 5 to 30 centimeter and wash liquid.

It would have been obvious at the time applicant invented the claimed nozzle to arrange the orifices to intersect the streams within a range of 5-30 cm with routine experimentation for the purpose of impinging the surface at specific distance. The nozzle disclosed by Kukesh et al. is capable of passing wash liquid, use with the pressure and liquid velocity as claimed herein.

It should be noted that no patentable weight has been given to the preamble/intended use in that the body of the claim fails to recite any limitations that give life and meaning to the preamble/intended use. See MPEP 2111.02.

**Claims 1-7 and 15-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hughes.**

Hughes (3,835,810) disclose a nozzle having intake and outlet end with a center axis; a number of orifice openings; wherein the orifices directed toward the center of the axis at a junction point 106 and an angle 22.5° toward the center axis and wash fluid (see Figs. 7A-7C and col. 10, lines 3-68). The reference fails to disclose a specific distance of 5 to 30 centimeter and wash liquid.

It would have been obvious at the time applicant invented the claimed nozzle to arrange the orifices to intersect the streams within a range of 5-30 cm with routine experimentation for the purpose of impinging the surface at specific distance. The nozzle disclosed by Hughes is capable of passing wash liquid, use with the pressure and liquid velocity as claimed herein.

It should be noted that no patentable weight has been given to the preamble/intended use in that the body of the claim fails to recite any limitations that give life and meaning to the preamble/intended use. See MPEP 2111.02.

#### **The Prior art**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Heyse (2004/0026538) disclose a nozzle having orifices, which disposed on a plane enclosed by an ellipse.

*Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saeed T. Chaudhry whose telephone number is (571) 272-1298. The examiner can normally be reached on Monday-Friday from 9:30 A.M. to 4:00 P.M.*

*If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Michael Barr, can be reached on (571)-272-1414. The fax phone number for non-final is (703)-872-9306.*

*When filing a FAX in Gp 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communication with the PTO that are for entry into the file of the application. This will expedite processing of your papers.*

*Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1700.*

*Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access*

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*to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).*

***Saeed T. Chaudhry***

***Patent Examiner***

/Michael Barr/

Supervisory Patent Examiner, Art Unit 1792